

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

Under Sections 17, 18 and 19 of Chapter 4 of the 1930 Revised Statutes, the volumes sent to the towns and plantations, to state, county or town officers, and to the several town and public officers in the State, distinctly remain the property of the State. Section 20 provides for distribution to various public officers, but it is noteworthy that the only place where the word "given" appears is in connection with State Departments and Institutions.

It is obvious that the volumes furnished to a Justice of the Superior or Supreme courts are for the library he uses in connection with his public duties as an officer of the State, and title does not pass to him as an individual. Section 18 expressly provides that if said office becomes vacant, the books shall be turned over to the officer's successor in office.

What I said above in regard to Section 20, applies with equal force to Section 21. Although the books sent to persons who are not officials of the State of Maine may become the property of the persons to whom sent, that is not true if the recipient is such an official.

In my opinion, under Section 19 every Maine Report, copy of the Revised Statutes, copy of the Public Laws or copy of the Digest distributed by the State Librarian to the several town and public officials, should be stamped as provided in said Section, but volumes sent to libraries, ex-Governors, United States Senators and members of Congress, to Federal officials, to the Library of Congress and the Maine State Bar Association, should not be so stamped.

Very truly yours,

FRANK I. COWAN

Attorney General

June 14th, 1941

Mr. Miles B. Mank  
Chairman, State Racing Commission  
State House  
Augusta, Maine

Dear Sir:

I have carefully considered your questions in regard to interpretation of Section 20 of Chapter 130 of the Public Laws of 1935. This section expressly provides that "Every person, association or corporation conducting a race . . . within 60 days after the conclusion of every race meeting shall submit to the commission a complete audit of its accounts certified by a public accountant qualified to practice in the state of Maine and approved by the commission."

This language, since it requires the employment of a qualified public accountant for the audit, by implication, of course, puts the bur-

den of payment of the accountant on the person employing him. However, there is nothing in the section requiring the presence of these public accountants at the races themselves, and it is the sole duty of the commission to determine whether or not the problem can be handled in a proper manner without the presence of such accountants.

A careful reading of the whole chapter discloses that the legislature intended that the commission should have charge of races and pari-mutuels. It is obviously impossible for the legislature to anticipate every situation that may arise. It is largely for that reason that commissions are set up and men of experience, firmness of mind and intelligence are appointed commissioners. Where the statute does not speak in regard to any detail, it is the duty of the commission to proceed along such lines as will best carry out the general intent of the legislature.

If, in the course of carrying out your duties, you find yourself in disagreement with the State Auditor, that does not necessarily mean that either of you is wrong. You each may have your ideas as to how best to proceed, but the final decision as to procedure must rest with you. There cannot be two different heads running a department. Either you are chairman of the racing commission or the auditor is chairman of the racing commission.

However, I strongly recommend that you give careful consideration to the auditor's suggestions because he seems to be a man sincerely desirous of furthering the best interests of the State. If, however, a suggestion of his is, in your opinion, impractical, you, as head of your department, must consider whether or not you are going to use your own judgment or capitulate to a suggestion that, in your opinion, it is unwise to follow.

Very truly yours,

Attorney General  
State of Maine

July 10, 1941

From:  
Frank I. Cowan, Attorney General

To:  
John C. Burnham,  
Director of Outdoor Advertising

I have your inquiry of July 9th in regard to a compact section of a town or city. Chapter 144 of the Public Laws of 1937 expressly describes the buildings which shall be considered in determining whether or not a section is "compact". These buildings must be devoted to business or be dwelling houses. We can hardly consider a private garage, an old barn, an ordinary hen house or an ordinary pig pen as "buildings devoted to business" and certainly they are not dwelling houses.